

# DRAFT CONSTITUTION OF THE IRISH FREE STATE.

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*Presented to Parliament by Command of His Majesty.*

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LONDON:

PRINTED & PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE

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1922

Price 6d. net.

Cmd. 1688.

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## PRELIMINARY.

These presents shall be construed with reference to the Articles of Agreement for a Treaty between Great Britain and Ireland set forth in the Schedule hereto annexed (hereinafter referred to as "the Scheduled Treaty") which are hereby given the force of law, and if any provision of this Constitution or of any amendment thereof or of any law made thereunder is in any respect repugnant to any of the provisions of the Scheduled Treaty, it shall, to the extent only of such repugnancy be absolutely void and inoperative and the Parliament and the Executive Council of the Irish Free State shall respectively pass such further legislation and do all such other things as may be necessary to implement the Scheduled Treaty.

## SECTION I.—FUNDAMENTAL RIGHTS.

*Article 1.*—The Irish Free State/Saorstát Éireann is a co-equal member of the Community of Nations forming the British Commonwealth of Nations.

*Article 2.*—All powers of government and all authority legislative, executive, and judicial, are derived from the people and the same shall be exercised in the Irish Free State/Saorstát Éireann through the organisations established by or under, and in accord with, this Constitution.

*Article 3.*—Every person domiciled in the Irish Free State/Saorstát Éireann at the time of the coming into operation of this Constitution who was born in Ireland or either of whose parents was born in Ireland or who has been so domiciled in the area of the jurisdiction of the Irish Free State/Saorstát Éireann for not less than seven years is a citizen of the Irish Free State/Saorstát Éireann and shall within the limits of the Irish Free State/Saorstát Éireann enjoy the privileges and be subject to the obligations of such citizenship, provided that any such person being a citizen of another State may elect not to accept the citizenship hereby conferred; and the conditions governing the future acquisition and termination of citizenship in the Irish Free State/Saorstát Éireann shall be determined by law. Men and women have equal rights as citizens.

*Article 4.*—The National language of the Irish Free State/Saorstát Éireann is the Irish language, but the English language

shall be equally recognised as an official language. Nothing in this Article shall prevent special provisions being made by the Parliament/Oireachtas for districts or areas in which only one language is in use.

*Article 5.*—No title of honour in respect of any services rendered in or in relation to the Irish Free State/Saorstát Éireann may be conferred on any citizen of the Irish Free State/Saorstát Éireann except with the approval or upon the advice of the Executive Council of the State.

*Article 6.*—The liberty of the person is inviolable and no person shall be deprived of his liberty except in accordance with law. Upon complaint made by or on behalf of any person that he is being unlawfully detained, the High Court/Ard Chúirt and any and every judge thereof shall forthwith enquire into the same and may make an order requiring the person in whose custody such person shall be detained to produce the body of the person so detained before such Court or Judge without delay and to certify in writing as to the cause of the detention and such Court or Judge shall thereupon order the release of such person unless satisfied that he is being detained in accordance with the law.

*Article 7.*—The dwelling of each citizen is inviolable and shall not be forcibly entered except in accordance with law.

*Article 8.*—Freedom of conscience and the free profession and practice of religion are inviolable rights of every citizen, and no law may be made either directly or indirectly to endow any religion, or prohibit or restrict the free exercise thereof or give any preference, or impose any disability on account of religious belief or religious status, or affect prejudicially the right of any child to attend a school receiving public money without attending the religious instruction at the school, or make any discrimination as respects State aid between schools under the management of different religious denominations, or divert from any religious denomination or any educational institution any of its property except for the purpose of roads, railways, lighting, water or drainage works or other works of public utility, and on payment of compensation.

*Article 9.*—The right of free expression of opinion as well as the right to assemble peaceably and without arms, and to form associations or unions is guaranteed for purposes not opposed to public morality. Laws regulating the manner in which the right of forming associations and the right of free assembly may be exercised shall contain no political, religious or class distinction.

*Article 10.*—All citizens of the Irish Free State/Saorstát Éireann have the right to free elementary education.

*Article 11.*—The rights of the State in and to natural resources, the use of which is of national importance, shall not be alienated. Their exploitation by private individuals or associations shall be permitted only under State supervision and in accordance with conditions and regulations approved by legislation.

## SECTION II.—LEGISLATIVE PROVISIONS.

## A.—THE LEGISLATURE.

*Article 12.*—A Legislature is hereby created to be known as the Parliament of the Irish Free State/Oireachtas. It shall consist of the King and two Houses: the Chamber of Deputies/Dail Eireann and the Senate/Seanad Eireann. The power of making laws for the peace, order and good government of the Irish Free State/Saorstát Eireann is vested in the Parliament/Oireachtas.

*Article 13.*—The Parliament/Oireachtas shall sit in or near the city of Dublin or in such other place as from time to time it may determine.

*Article 14.*—All citizens of the Irish Free State/Saorstát Eireann without distinction of sex, who have reached the age of twenty-one years and who comply with the provisions of the prevailing electoral laws, shall have the right to vote for members of the Chamber of Deputies/Dail Eireann, and to take part in the Referendum or Initiative. All citizens of the Irish Free State/Saorstát Eireann without distinction of sex who have reached the age of thirty years and who comply with the provisions of the prevailing electoral laws, shall have the right to vote for members of the Senate/Seanad Eireann. No voter may exercise more than one vote and the voting shall be by secret ballot. The mode and place of exercising this right shall be determined by law.

*Article 15.*—Every citizen who has reached the age of twenty-one years and who is not placed under disability or incapacity by the Constitution or by law shall be eligible to become a member of the Chamber of Deputies/Dail Eireann.

*Article 16.*—No person may be at the same time a member both of the Chamber/Dail Eireann and of the Senate/Seanad Eireann.

*Article 17.*—The oath to be taken by Members of Parliament/Oireachtas shall be in the following form:—

I ..... do solemnly swear true faith and allegiance to the Constitution of the Irish Free State as by law established, and that I will be faithful to H.M. King George V., His heirs and successors by law in virtue of the common citizenship of Ireland with Great Britain and her adherence to and membership of the group of nations forming the British Commonwealth of Nations.

Such oath shall be taken and subscribed by every member of the Parliament/Oireachtas before taking his seat therein before the Representative of the Crown or some person authorised by him.

*Article 18.*—Every member of the Parliament/Oireachtas shall, except in case of treason, felony, or breach of the peace, be privileged from arrest in going to and returning from, and while within the precincts of either House, and shall not be amenable

to any action or proceeding at law in respect of any utterance in either House.

*Article 19.*—All reports and publications of the Parliament/Oireachtas or of either House thereof shall be privileged and utterances made in either House, wherever published, shall be privileged.

*Article 20.*—Each House shall make its own rules and Standing Orders, with power to attach penalties for their infringement and shall have power to ensure freedom of debate, to protect its official documents and the private papers of its members, and to protect itself and its members against any person or persons interfering with, molesting or attempting to corrupt its members in the exercise of their duties.

*Article 21.*—Each House shall elect its own Chairman and Deputy Chairman and shall prescribe their powers, duties, and terms of office.

*Article 22.*—All matters in each House shall, save as otherwise provided by this Constitution, be determined by a majority of the votes of the members present other than the Chairman or presiding member, who shall have and exercise a casting vote in the case of an equality of votes. The number of members necessary to constitute a meeting of either House for the exercise of its powers shall be determined by its Standing Orders.

*Article 23.*—The Parliament/Oireachtas shall make provision for the payment of its members and may, in addition, provide them with free travelling facilities in any part of Ireland.

*Article 24.*—The Parliament/Oireachtas shall hold at least one session each year. The Parliament/Oireachtas shall be summoned and dissolved by the Representative of the Crown in the name of the King and subject as aforesaid the Chamber/Dail Eireann shall fix the date of re-assembly of the Parliament/Oireachtas and the date of the conclusion of the session of each House provided that the Sessions of the Senate/Seanad Eireann shall not be concluded without its own consent.

*Article 25.*—Sittings of each House of the Parliament/Oireachtas shall be public. In cases of special emergency either House may hold a private sitting with the assent of two-thirds of the members present.

## SECTION II.—LEGISLATIVE PROVISIONS.

### B.—THE CHAMBER OF DEPUTIES/DAIL EIREANN.

*Article 26.*—The Chamber/Dail Eireann shall be composed of members who represent constituencies determined by law. The number of members shall be fixed from time to time by the Parliament/Oireachtas, but the total number of members of the Chamber/Dail Eireann shall not be fixed at less than one member for each thirty thousand of the population, or at more than one

member for each twenty thousand of the population: Provided that the proportion between the number of members to be elected at any time for each constituency and the population of each constituency, as ascertained at the last preceding census, shall, so far as possible, be identical throughout the country. The members shall be elected upon principles of Proportional Representation. The Parliament/Oireachtas shall revise the constituencies at least once in every ten years, with due regard to changes in distribution of the population, but any alterations in the constituencies shall not take effect during the life of the Chamber/Dail Eireann sitting when such revision is made.

*Article 27.*—At a General Election for the Chamber/Dail Eireann the polls shall be held on the same day throughout the country and that day shall be a day not later than thirty days after the date of the dissolution and shall be proclaimed a public holiday. The Chamber/Dail Eireann shall meet within one month of such day, and shall unless earlier dissolved continue for four years from the date of its first meeting and not longer. The Chamber/Dail Eireann may not at any time be dissolved except on the advice of the Executive Council.

*Article 28.*—In case of death, resignation or disqualification of a member of the Chamber/Dail Eireann, the vacancy shall be filled by election in manner to be determined by law.

## SECTION II.—LEGISLATIVE PROVISIONS.

### C.—THE SENATE/SEANAD EIREANN.

*Article 29.*—The Senate/Seanad Eireann shall be composed of citizens who have done honour to the Nation by reason of useful public service or who, because of special qualifications or attainments, represent important aspects of the Nation's life.

*Article 30.*—Every University in the Irish Free State/Saorstát Eireann shall be entitled to elect two representatives to the Senate/Seanad Eireann. The number of Senators exclusive of the University members shall be fifty-six. A citizen to be eligible for membership of the Senate/Seanad must be a person eligible to become a member of the Chamber/Dail Eireann and must have reached the age of thirty-five years. Subject to any provision for the constitution of the first Senate/Seanad the term of office of a member of the Senate/Seanad shall be twelve years.

*Article 31.*—One-fourth of the members of the Senate/Seanad Eireann exclusive of the University members shall be elected every three years from a panel constituted as hereinafter mentioned at an election at which the Irish Free State/Saorstát Eireann shall form one electoral area, and the elections shall be held on principles of Proportional Representation. One member shall be elected by each University entitled to representation in the Senate/Seanad every six years.

*Article 32.*—Before each election of members of the Senate/Seanad Éireann (other than University members) a panel shall be formed consisting of—

- (a) Three times as many qualified persons as there are members to be elected of whom two-thirds shall be nominated by the Chamber/Dail Éireann voting according to principles of Proportional Representation and one-third shall be nominated by the Senate/Seanad Éireann voting according to principles of Proportional Representation; and
- (b) Such persons who have at any time been members of the Senate/Seanad (including members about to retire) as signify by notice in writing addressed to the President of the Executive Council their desire to be included in the panel.

The method of proposal and selection for nomination shall be decided by the Chamber/Dail and Senate/Seanad respectively with special reference to the necessity for arranging for the representation of important interests and institutions in the country: Provided that each proposal shall be in writing and shall state the qualifications of the person proposed. As soon as the panel has been formed a list of the names of the members of the panel arranged in alphabetical order with their qualifications shall be published.

*Article 33.*—In case of the death, resignation or disqualification of a member of the Senate/Seanad Éireann (other than a University member) his place shall be filled by a vote of the Senate/Seanad. Any Senator so chosen shall retire from office at the conclusion of the three years period then running and the vacancy or vacancies thus created shall be additional to the places to be filled under Article 31. The term of office of the members chosen at the election after the first fourteen elected shall conclude at the end of the period or periods at which the Senator or Senators by whose death or withdrawal the vacancy or vacancies was or were originally created would be due to retire: Provided that the fifteenth member shall be deemed to have filled the vacancy first created in order of time and so on.

In case of the death, resignation or disqualification of a University member of the Senate/Seanad, the University by which he was elected shall elect a person to fill his place, and the member so elected shall hold office so long as the member in whose place he was elected would have held office.

## SECTION II.—LEGISLATIVE PROVISIONS.

### D.—LEGISLATION.

*Article 34.*—The Chamber/Dail Éireann shall in relation to the subject-matter of money bills as hereinafter defined have legislative authority exclusive of the Senate/Seanad Éireann.

A money Bill means a Bill which contains only provisions dealing with all or any of the following subjects, namely, the imposition, repeal, remission, alteration or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on public moneys or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof; subordinate matters incidental to those subjects or any of them. In this definition the expression "taxation," "public money" and "loan" respectively do not include any taxation, money or loan raised by local authorities or bodies for local purposes.

The Chairman of the Chamber/Dail shall certify any Bill which in his opinion is a Money Bill to be a Money Bill, but, if within three days after a Bill has been passed by the Chamber/Dail, two-fifths of the members of either House by notice in writing addressed to the Chairman of the House of which they are members so require, the question whether the Bill is or is not a Money Bill shall be referred to a Committee of Privileges consisting of three members elected by each House with a Chairman who shall be the senior judge of the Supreme Court able and willing to act, and who, in the case of an equality of votes, but not otherwise, shall be entitled to vote. The decision of the Committee on the question shall be final and conclusive.

*Article 35.*—The Chamber/Dail Eireann shall as soon as possible after the commencement of each financial year consider the Budget of receipts and expenditure of the Irish Free State/Saorstát Eireann for that year, and, save in so far as may be provided by specific enactment in each case, the legislation required to give effect to the Budget of each year shall be enacted within that year.

*Article 36.*—Money shall not be appropriated by vote, resolution or law, unless the purpose of the appropriation has in the same session been recommended by a message from the Representative of the Crown acting on the advice of the Executive Council.

*Article 37.*—Every Bill initiated in and passed by the Chamber/Dail Eireann shall be sent to the Senate/Seanad Eireann and may, unless it be a Money Bill, be amended in the Senate/Seanad Eireann and the Chamber/Dail Eireann shall consider any such amendment; but a Bill passed by the Chamber/Dail Eireann and considered by the Senate/Seanad Eireann shall, not later than two hundred and seventy days after it shall have been first sent to the Senate/Seanad, or such longer period as may be agreed upon by the two Houses, be deemed to be passed by both Houses in its form as last passed by the Chamber/Dail; Provided that any Money Bill shall be sent to the Senate/Seanad for its recommendations and at a period not longer than fourteen days after it shall have been sent to the Senate/Seanad, it shall be

returned to the Chamber/Dail which may pass it, accepting or rejecting all or any of the recommendations of the Senate/Seanad, and as so passed shall be deemed to have been passed by both Houses. When a Bill other than a Money Bill has been sent to the Senate/Seanad a Joint Sitting of the Members of both Houses may on a resolution passed by the Senate/Seanad be convened for the purpose of debating but not of voting upon, the proposals of the Bill or any amendment of the same.

*Article 38.*—A Bill may be initiated in the Senate/Seanad Eireann and if passed by the Senate/Seanad shall be introduced into the Chamber/Dail Eireann. If amended by the Chamber/Dail the Bill shall be considered as a Bill initiated in the Chamber/Dail. If rejected by the Chamber/Dail it shall not be introduced again in the same session, but the Chamber/Dail may reconsider it on its own motion.

*Article 39.*—A Bill passed by either House and accepted by the other House shall be deemed to be passed by both Houses.

*Article 40.*—So soon as any Bill shall have been passed or deemed to have been passed by both Houses, the Executive Council shall present the same to the Representative of the Crown for the signification by him, in the King's name, of the King's assent, and such Representative may withhold the King's assent or reserve the Bill for the signification of the King's pleasure; Provided that the Representative of the Crown shall in the withholding of such assent to or the reservation of any Bill, act in accordance with the law, practice, and constitutional usage governing the like withholding of assent or reservation in the Dominion of Canada.

A Bill reserved for the signification of the King's Pleasure shall not have any force unless and until within one year from the day on which it was presented to the Representative of the Crown for the King's Assent, the Representative of the Crown signifies by speech or message to each of the Houses of the Parliament/Oireachtas, or by proclamation, that it has received the Assent of the King in Council.

An entry of every such speech, message or proclamation shall be made in the Journal of each House and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the Records of the Irish Free State/Saorstát Eireann.

*Article 41.*—As soon as may be after any law has received the King's Assent, the clerk, or such officer as the Chamber may appoint for the purpose, shall cause two fair copies of such law to be made, one being in the Irish language and the other in the English language (one of which copies shall be signed by the Representative of the Crown to be enrolled for record in the office of such officer of the Supreme Court as the Chamber/Dail Eireann may determine), and such copies shall be conclusive evidence as to the provisions of every such law, and in case of

conflict between the two copies so deposited, that signed by the Representative of the Crown shall prevail.

*Article 42.*—The Parliament/Oireachtas shall have no power to declare acts to be infringements of the law which were not so at the date of their commission.

*Article 43.*—The Parliament/Oireachtas may create subordinate legislatures, but it shall not confer thereon any powers in respect of the Navy, Army or Air Force, alienage or naturalisation, coinage, legal tender, trade marks, designs, merchandise marks, copyright, patent rights, weights and measures, submarine cables, wireless telegraphy, post office, railways, aerial navigation, customs and excise.

*Article 44.*—The Parliament/Oireachtas may provide for the establishment of Functional or Vocational Councils representing branches of the social and economic life of the Nation. A law establishing any such Council shall determine its powers, rights and duties, and its relation to the government of the Irish Free State/Saorstát Éireann.

*Article 45.*—The Parliament/Oireachtas has the exclusive right to regulate the raising and maintaining of such armed forces as are mentioned in the Scheduled Treaty in the territory of the Irish Free State/Saorstát, and every such force shall be subject to the control of the Parliament/Oireachtas.

## SECTION II.—LEGISLATIVE PROVISIONS.

### E.—REFERENDUM AND INITIATIVE.

*Article 46.*—Any Bill passed or deemed to have been passed by both Houses may be suspended for a period of ninety days on the written demand of two-fifths of the members of the Chamber/Dáil Éireann or of a majority of the members of the Senate/Seanad Éireann presented to the President of the Executive Council not later than seven days from the day on which such Bill shall have been so passed or deemed to have been so passed. Such a Bill shall be submitted by Referendum to the decision of the people if demanded before the expiration of the ninety days either by a resolution of the Senate/Seanad Éireann assented to by three-fifths of the members of the Senate/Seanad Éireann or by a petition signed by not less than one-twentieth of the voters then on the register of voters, and the decision of the people on such referendum shall be conclusive. These provisions shall not apply to Money Bills or to such Bills as shall be declared by both Houses to be necessary for the immediate preservation of the public peace, health or safety.

*Article 47.*—The Parliament/Oireachtas may provide for the initiation by the people of proposals for laws or constitutional amendments. Should the Parliament/Oireachtas fail to make

such provision within two years, it shall on the petition of not less than one hundred thousand voters on the register of whom not more than twenty thousand shall be voters in any one constituency, either make such provisions or submit the question to the people for decision in accordance with the ordinary regulations governing the Referendum. Any legislation passed by the Parliament/Oireachtas providing for such initiation by the people shall provide (1) that such proposals may be initiated on a petition of fifty thousand voters on the register, (2) that if the Parliament/Oireachtas rejects a proposal so initiated it shall be submitted to the people for decision in accordance with the ordinary regulations governing the Referendum; and (3) that if the Parliament/Oireachtas enacts a proposal so initiated such enactment shall be subject to the provisions respecting ordinary legislation or amendments of the Constitution as the case may be.

*Article 48.*—Save in the case of actual invasion, the Irish Free State/Saorstát Éireann shall not be committed to active participation in any war without the assent of the Parliament/Oireachtas.

*Article 49.*—Amendments of this Constitution within the terms of the Scheduled Treaty may be made by the Parliament/Oireachtas but every such amendment must be submitted to a Referendum of the people and shall not be passed unless a majority of the voters on the register record their votes and either a majority of the voters on the register or two-thirds of the votes recorded are in favour of the amendment.

### SECTION III.—THE EXECUTIVE.

#### A.—EXECUTIVE COUNCIL/AIREACHT.

*Article 50.*—The Executive Authority of the Irish Free State/Saorstát Éireann is hereby declared to be vested in the King, and shall be exercisable, in accordance with the law, practice and constitutional usage governing the exercise of the executive authority in the case of the Dominion of Canada, by the Representative of the Crown. There shall be a Council to aid and advise in the government of the Irish Free State/Saorstát Éireann to be styled the Executive Council/Aireacht. The executive Council shall be responsible to the Chamber/Dáil Éireann, and shall consist of not more than twelve Ministers/Airí appointed by the Representative of the Crown, of whom four Ministers shall be Members of the Chamber/Dáil Éireann and a number not exceeding eight, chosen from all citizens eligible for election to the Chamber/Dáil Éireann, who shall not be members of Parliament/Oireachtas during their term of office, and who, if at the time of their appointment they are members of Parliament/Oireachtas, shall by virtue of such appointment vacate their seats: Provided that the Chamber/Dáil Éireann may from time to time on the motion of the President of the Executive

Council determine that a particular Minister or Ministers not exceeding three, may be members of Parliament/Oireachtas in addition to the four members of the Chamber/Dail Eireann above mentioned.

*Article 51.*—The Ministers who are required to be members of the Chamber/Dail Eireann shall include the President of the Executive Council/Uachtaran and the Vice-President of the Executive Council/Tanaist.

The President of the Executive Council shall be the chief of the Executive Council and shall be appointed on the nomination of the Chamber/Dail, and the Vice-President of the Executive Council and the other Ministers who are members of the Parliament/Oireachtas shall be appointed on the nomination of the President of the Executive Council; and he and the Ministers nominated by him shall retire from office should he fail to be supported by a majority in the Chamber/Dail, but the President of the Executive Council and such Ministers shall continue to carry on their duties until their successors are appointed.

*Article 52.*—Ministers who are not members of the Parliament/Oireachtas shall be nominated by a Committee of members of the Chamber/Dail Eireann chosen by a method to be determined by the Chamber/Dail so as to be impartially representative of the Chamber/Dail. Such Ministers shall be chosen with due regard to their suitability for office and should, as far as possible, be generally representative of the Irish Free State/Saorstát Eireann as a whole rather than of groups or of parties. Should a nomination not be acceptable to the Chamber/Dail, the Committee shall continue to propose names until one is found acceptable.

*Article 53.*—Each Minister not a member of the Parliament/Oireachtas shall be the responsible head of the Executive Department or Departments as head of which he has been appointed as aforesaid: Provided that should arrangements for Functional or Vocational Councils be made by the Parliament/Oireachtas these Ministers or any of them may, should the Parliament/Oireachtas so decide, be members of and be nominated on the advice of such Councils. The term of office of any such Minister shall be the term of the Chamber/Dail Eireann existing at the time of his appointment or such other period as may be fixed by law, but he shall continue in office until his successor shall have been appointed: and no such Minister shall be removed from office during his term unless the proposal to remove him has been previously submitted to a Committee chosen by a method to be determined by the Chamber/Dail so as to be impartially representative of the Chamber/Dail and then only if the Committee shall have reported that such Minister has been guilty of malfeasance in office, or has not been performing his duties in a competent and satisfactory manner, or has failed to carry out the lawfully expressed will of Parliament/Oireachtas.

*Article 54.*—The Ministers who are members of the Parliament/Oireachtas shall alone be responsible for all matters relating to external affairs, whether policy, negotiations, or executive acts. Subject to the foregoing provision, the Executive Council shall meet and act as a collective authority: Provided, however, that each Minister shall be individually responsible to the Chamber/Dail Eireann for the administration of the Department or Departments of which he is head.

*Article 55.*—Ministers who are not members of the Chamber/Dail Eireann shall by virtue of their office possess all the rights and privileges of a member of the Chamber/Dail except the right to vote, and shall, if not members of the Parliament/Oireachtas, comply with the provisions of Article 17 as if they were members of the Chamber/Dail, and may be required by the Chamber/Dail to attend and answer questions.

*Article 56.*—Should the President of the Executive Council die, resign or be permanently incapacitated, the Vice-President of the Executive Council shall act in his place until a President of the Executive Council shall be elected. The Vice-President of the Executive Council shall also act in the place of the President of the Executive Council during his temporary absence.

*Article 57.*—The members of the Executive Council shall receive such remuneration as may from time to time be prescribed by law, but the remuneration of any Minister shall not be diminished during his term of office.

*Article 58.*—The Representatives of the Crown, who shall be styled the Governor General of the Irish Free State, shall be appointed in like manner as the Governor-General of Canada and in accordance with the practice observed in the making of such appointments. The salary of the Governor-General of the Irish Free State shall be of the like amount as that now payable to the Governor-General of the Commonwealth of Australia and shall be charged on the public funds of the Irish Free State/Saorstát Eireann and suitable provision shall be made out of those funds for the maintenance of his official residence and establishment.

*Article 59.*—The Executive Council shall prepare the Budget of receipts and expenditure of the Irish Free State/Saorstát Eireann for each financial year and shall present it to the Chamber/Dail Eireann before the close of the previous financial year.

### SECTION III.—THE EXECUTIVE.

#### B.—FINANCIAL CONTROL.

*Article 60.*—All revenues of the Irish Free State/Saorstát Eireann from whatever source arising, shall, subject to such exception as may be provided by law, form one fund, and shall be appropriated for the purposes of the Irish Free State/Saorstát Eireann in the manner and subject to the charges and liabilities imposed by law.

*Article 61.*—The Chamber/Dail Eireann shall appoint a Comptroller and Auditor-General to act on behalf of the Irish Free State/Saorstát Eireann. He shall control all disbursements and shall audit all accounts of moneys administered by or under the authority of the Parliament/Oireachtas and shall report to the Chamber/Dail at stated periods to be determined by law.

*Article 62.*—The Comptroller and Auditor-General shall not be removed except for stated misbehaviour or incapacity on resolutions passed by the Chamber/Dail Eireann and the Senate/Seanad Eireann. Subject to this provision the terms and conditions of his tenure of office shall be fixed by law. He shall not be a member of the Parliament/Oireachtas nor shall he hold any other office or position of emolument.

#### SECTION IV.—THE JUDICIARY.

*Article 63.*—The judicial power of the Irish Free State/Saorstát Eireann shall be exercised and justice administered in the public Courts established by Parliament/Oireachtas by judges appointed in manner hereinafter provided. These Courts shall comprise Courts of First Instance and a Court of Final Appeal to be called the Supreme Court (Cúirt Uachtarach). The Courts of First Instance shall include a High Court (Ard Chúirt) invested with full original jurisdiction in and power to determine all matters and questions whether of law or fact, civil or criminal, and also Courts of local and limited jurisdiction with a right of appeal as determined by law.

*Article 64.*—The judicial power of the High Court shall extend to the question of the validity of any law having regard to the provisions of the Constitution. In all cases in which such matters shall come into question, the High Court alone shall exercise original jurisdiction.

*Article 65.*—The Supreme Court of the Irish Free State/Saorstát Eireann shall, with such exceptions (not including cases which involve questions as to the validity of any law) and subject to such regulations as may be prescribed by law have appellate jurisdiction from all decisions of the High Court. The decision of the Supreme Court shall in all cases be final and conclusive, and shall not be reviewed or capable of being reviewed by any other Court, Tribunal or Authority whatsoever.

Provided that nothing in this Constitution shall impair the right of any person to petition His Majesty for special leave to appeal from the Supreme Court to His Majesty in Council or the right of His Majesty to grant such leave.

*Article 66.*—The number of judges, the constitution and organisation of, and distribution of business and jurisdiction among, the said Courts and judges, and all matters of procedure shall be as prescribed by the Laws for the time being in force and the regulations made thereunder.

*Article 67.*—The judges of the Supreme Court and of the High Court and of all other Courts established in pursuance of this Constitution shall be appointed by the Representative of the Crown on the advice of the Executive Council. The judges of the Supreme Court and of the High Court shall not be removed except for stated misbehaviour or incapacity and then only by resolutions passed by both the Chamber/Dail Eireann and the Senate/Seanad Eireann. The age of retirement, the remuneration and the pension of such judges on retirement and the declarations to be taken by them on appointment shall be prescribed by law. Such remuneration may not be diminished during their continuance in office. The terms of appointment of the judges of such other courts as may be created shall be prescribed by law.

*Article 68.*—All judges shall be independent in the exercise of their functions and subject only to the Constitution and the law. A judge shall not be eligible to sit in Parliament/Oireachtas and shall not hold any other office or position of emolument.

*Article 69.*—No one shall be tried save in due course of law and extraordinary courts shall not be established. The jurisdiction of Courts Martial shall not be extended to or exercised over the civil population save in time of war, and for acts committed in time of war, and in accordance with the regulations to be prescribed by law. Such jurisdiction shall not be exercised in any area in which the civil courts are open or capable of being held, and no person shall be removed from one area to another for the purpose of creating such jurisdiction.

*Article 70.*—A member of the armed forces of the Irish Free State/Saorstát Eireann not on active service shall not be tried by any Court Martial for an offence cognisable by the Civil Courts.

*Article 71.*—No person shall, save in case of summary jurisdiction prescribed by law for minor offences, be tried without a jury on any criminal charge.

## SECTION V.—TRANSITORY PROVISIONS.

*Article 72.*—Subject to this Constitution and to the extent to which they are not inconsistent therewith, the laws in force in the Irish Free State/Saorstát Eireann at the date of the coming into operation of this Constitution shall continue to be of full force and effect until the same or any of them shall have been repealed or amended by enactment of the Parliament/Oireachtas.

*Article 73.*—Until Courts have been established for the Irish Free State/Saorstát Eireann in accordance with this Constitution, the Supreme Court of Judicature, County Courts, Courts of Quarter Session and Courts of Summary Jurisdiction, as at present existing, shall for the time being continue to exercise the same jurisdiction as heretofore, and any judge or justice, being a

member of any such Court, holding office at the time when this Constitution comes into operation, shall for the time being continue to be a member thereof and hold office by the like tenure and upon the like terms as heretofore, unless, in the case of a judge of the said Supreme Court or of a County Court he signifies to the Representative of the Crown his desire to resign. Any vacancies in any of the said Courts so continued may be filled by appointment made in like manner as appointments to judgeships in the Courts established under this Constitution.

Provided that the provisions of Article 65 as to the decisions of the Supreme Court established under this Constitution shall apply to decisions of the Court of Appeal continued by this Article.

*Article 74*—If any judge of the said Supreme Court of Judicature or of any of the said County Courts resigns as aforesaid, or if any such judge, on the establishment of Courts under this Constitution, is not with his consent appointed to be a judge of any such Court, he shall, for the purpose of Article 10 of the Scheduled Treaty, be treated as if he had retired in consequence of the change of Government effected in pursuance of the said Treaty, but the rights so conferred shall be without prejudice to any rights or claims that he may have against the British Government.

*Article 75*.—Every existing officer of the Provisional Government who has been transferred to that Government from the British Government, and every existing officer of the British Government who, at the date of the coming into operation of this Constitution, is engaged or employed in the administration of public services which on that date become public services of the Irish Free State/Saorstát Éireann (except those whose services have been lent by the British Government to the Provisional Government) shall on that date be transferred to and become an officer of the Irish Free State/Saorstát Éireann and shall hold office by a tenure corresponding to his previous tenure, and shall be entitled to the benefit of Article 10 of the Scheduled Treaty.

*Article 76*.—As respects departmental property, assets, rights and liabilities, the Government of the Irish Free State/Saorstát Éireann shall be regarded as the successors of the Provisional Government, and, to the extent to which functions of any department of the British Government become functions of the Government of the Irish Free State/Saorstát Éireann, as the successors of such department of the British Government.

*Article 77*.—After the date on which this Constitution comes into operation the House of the Parliament elected in pursuance of the Irish Free State (Agreement) Act, 1922 (being the constituent assembly for the settlement of this Constitution) may, for a period not exceeding one year from that date, but subject to compliance by the Members thereof with the provisions of Article 17 of this Constitution, exercise all the powers and authorities conferred on the Chamber/Dáil Éireann by this constitution, and the first election for the Chamber/Dáil Éireann

under Articles 26 and 27 hereof shall take place as soon as possible after the expiration of such period.

*Article 78.*—The first Senate/Seanad Éireann shall be constituted immediately after the coming into operation of this Constitution in the manner following, that is to say—

- (a) the first Senate/Seanad shall consist of two members elected by each of the Universities in the Irish Free State/Saorstát Éireann and fifty-six other members, of whom twenty-eight shall be elected and twenty-eight shall be nominated.
- (b) the twenty-eight nominated members of the Senate/Seanad shall be nominated by the President of the Executive Council who shall, in making such nominations, have special regard to the providing of representation for groups or parties not adequately represented in the Chamber/Dail.
- (c) the twenty-eight elected members of the Senate/Seanad shall be elected by the Chamber/Dail Éireann voting on principles of Proportional Representation.
- (d) Of the University members one member elected by each University, to be selected by lot, shall hold office for six years, the remaining University members shall hold office for the full period of twelve years.
- (e) Of the twenty-eight nominated members fourteen, to be selected by lot, shall hold office for the full period of twelve years, the remaining fourteen shall hold office for the period of six years.
- (f) Of the twenty-eight elected members the first fourteen elected shall hold office for the period of nine years, the remaining fourteen shall hold office for the period of three years.
- (g) At the termination of the period of office of any such members, members shall be elected in their place in manner provided by Article 31.
- (h) Casual vacancies shall be filled in manner provided by Article 33.
- (i) For the purpose of the election of members for any University under this Article, all persons whose names appear on the register for the University in force at the date of the coming into operation of this Constitution shall, notwithstanding anything in Article 14, be entitled to vote.

*Article 79.*—The passing and adoption of this constitution by the Constituent Assembly and the British Parliament shall be announced as soon as may be, and not later than the sixth day of December, nineteen hundred and twenty-two, by Proclamation of His Majesty and this Constitution shall come into operation on the issue of such Proclamation.

